

LAW OFFICE

MCLEOD, WATKINSON & MILLER

MICHAEL R. MCLEOD
WAYNE R. WATKINSON
MARC E. MILLER
RICHARD T. ROSSIER
CHARLES A. SPITULNIK
RICHARD PASCO
ALEX MENENDEZ
ELIZABETH A. HAWS**
AMY B. JONES***

ONE MASSACHUSETTS AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20001-1401
(202) 842-2345
TELECOPY (202) 408-7763

KATHRYN A. KLEIMAN*
OF COUNSEL
(*Admitted in Virginia only)

ROBERT RANDALL GREEN
LAURA L. PHELPS
GOVERNMENT RELATIONS

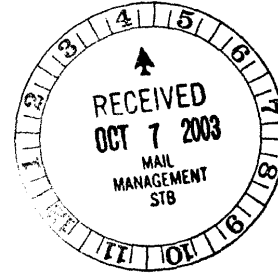
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(***Admitted in New York only)

FEE RECEIVED

OCT - 7 2003

October 7, 2003

**SURFACE
TRANSPORTATION BOARD**



Honorable Vernon A. Williams
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

Re: Docket No. AB-416 (Sub-No. 3X), *San Bernardino Associated Governments –
Abandonment Exemption – San Bernardino County, CA*

Dear Sir:

I am enclosing for filing an original and ten copies of the San Bernardino Associated Governments' Verified Notice of Exempt Abandonment in this proceeding. An extra copy is enclosed for date stamp and return to our messenger. I am including a check in the amount of \$2,800.00 for the filing fee. In addition, we are enclosing a 3.5 inch diskette with this document.

Sincerely,



Charles A. Spitulnik

ENTERED
Office of Proceedings

OCT - 6 2003

Part of
Public Record

Enclosures

FILED

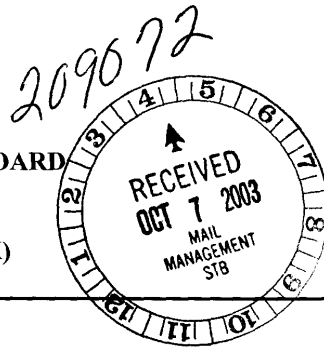
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**SURFACE
TRANSPORTATION BOARD**

FEE RECEIVED
OCT - 7 2003
SURFACE
TRANSPORTATION BOARD

Before the
SURFACE TRANSPORTATION BOARD
Washington, D.C.

Docket No. AB-416 (Sub-No. 3X)



FILED

OCT - 7 2003

SURFACE
TRANSPORTATION BOARD

SAN BERNARDINO ASSOCIATED GOVERNMENTS --
ABANDONMENT EXEMPTION --
SAN BERNARDINO COUNTY, CA

ENTERED
Office of Proceedings

OCT - 8 2003

Part of
Public Record

VERIFIED NOT

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ORIGINAL

San Bernardino Associated C reby notifies this Board that it
will abandon any residual common gain with respect to the line
segment between Mileposts 9.48 and milepost 11.40 on the Burlington Northern Santa Fe
Railway Company ("BNSF") in Redlands, San Bernardino County, California. This is the line
segment with respect to which BNSF filed a Notice of Exemption in Docket No. AB-6 (Sub-No.
398X), *The Burlington Northern and Santa Fe Ry. Co. - Abandonment Exemption - in San
Bernardino County* (Service Date December 12, 2002). In a subsequent order in that same
proceeding, the Board stated, based on the review of the proposal by its Section of
Environmental Analysis, that "[a]bandonment of the involved rail line will have no significant
impact on the quality of the human environment and conservation of energy resources or on
historic resources." Decision, Service Date January 15, 2003.

The procedure for SANBAG to follow with respect to its abandonment of its regulated
interest in this line segment is set forth in F. D. No. 32173 *et al.*, *Orange Co. Trans. Auth., et al.*
-- *Abandonment Exemption - The Atchison, Topeka and Santa Fe Ry. Co.*, slip op., 1997 WL
106979 (I.C.C.) (Service Date March 12, 1997). The Board stated the following:

The Transit Agencies [of which SANBAG was one] propose special abandonment procedures for meeting their obligations under the National Environmental Policy Act (NEPA) and the labor protection provisions of section 10903. They propose to file a notice reciting the labor protection we are required to impose, and adopting whatever environmental and historic reports are filed by the SP, Santa Fe or other freight railroad in the proceeding in which the freight railroad seeks to discontinue freight service over the affected lined.

This proposal is acceptable and we will adopt it. All of the issues pertaining to labor protection and environmental and historic issues can be adequately treated in the discontinuance proceeding and, if the reports filed reflect adequate treatment, we will adopt them.

Id., at *1.

The following is the information required by the above-referenced decision and 49 C.F.R. §1152.50:

1. **Proposed Consummation Date:**

SANBAG will consummate this abandonment on or about November 26, 2003.

2. **Certification required by §1152.50(b):**

SANBAG hereby certifies, based on the information provided by BNSF in its Notice of Exemption in Docket No. AB-6 (Sub-No. 398X) and on the information available to SANBAG as owner of the line with no authority or ability to provide freight service thereon, that no local traffic has moved over the line for at least 2 years and any overhead traffic on the line can be rerouted over other lines and that no formal complaint filed by a user of rail service on the line (or a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or any U.S. District Court or has been decided in favor of the complainant within the 2- year period.

3. **Information required by 49 C.F.R. §1152.22(a)(1), Exact name of applicant:**

San Bernardino Associated Governments

4. **Information required by 49 C.F.R. §1152.22(a)(2), whether applicant is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, chapter 105:**

By virtue of its acquisition of the rights and obligations acquired in the transaction described in F.D. No. 32172, *et al.*, 10 I.C.C. 2d 78 (1994), SANBAG acquired a residual common carrier obligation with respect to this line segment. SANBAG has never held itself out to offer or provide, and does not have authority under the governing California statute to offer or provide, rail freight service.

5. **Information required by 49 C.F.R. §1152.22(a)(3), Relief sought (abandonment of line or discontinuance of service):**

SANBAG seeks authority to abandon its residual common carrier obligation on this line. Under the Shared Use Agreement between BNSF and SANBAG, BNSF had the exclusive ability to operate freight service over this line segment. BNSF has relinquished that ability. Docket No. AB-6 (Sub-No. 398X), *The Burlington Northern and Santa Fe Ry. Co. – Abandonment Exemption – in San Bernardino County* (Service Date December 12, 2002).

6. **Information required by 49 C.F.R. §1152.22(a)(4), Detailed map of the subject line:**

The required map is attached as Exhibit A.

7. **Information required by 49 C.F.R. §1152.22(a)(7), Applicant's Representative to whom correspondence should be sent:**

Charles A. Spitulnik
Alex Menendez
McLeod, Watkinson & Miller
One Massachusetts Avenue, NW
Suite 800
Washington, D.C. 20001
(202) 842-2345
Email: cspitulnik@mwmlaw.com; amenendez@mwmlaw.com

8. **Information required by 49 C.F.R. §1152.22(a)(8), Zip Codes traversed by the line:**

92374

9. **Information required by 49 C.F.R. §1152.22(e)(4):** The properties proposed to be abandoned are appropriate for use for other public purposes. SANBAG acquired this line in 1993 and is not aware of any restriction on the title to the property, including any reversionary interest, which would affect the transfer of title or the use of property for other than rail purposes.

10. **Labor protection:** The interests of employees affected by the proposed abandonment will be protected by the conditions imposed in *Oregon Short Line RR. – Abandonment – Goshen*, 360 I.C.C. 91 (1979).

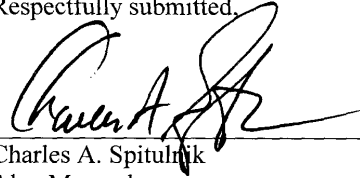
11. **Notice required by 49 C.F.R. §1152.50(d)(1):** SANBAG certifies that it has provided the notice required by 49 C.F.R. §1152.50(d)(1) to the parties listed there. Copies of the letters sent to those parties are attached hereto as Exhibit B.

12. **Notice required by 49 C.F.R. §1105.11:** Pursuant to the Board's Decision in F. D. No. 32173 *et al.*, *Orange Co. Trans. Auth., et al. - - Abandonment Exemption - - The Atchison, Topeka and Santa Fe Ry. Co., slip op.*, 1997 WL 106979 (I.C.C.) (Service Date March 12, 1997), SANBAG is relying on the environmental documentation provided by BNSF in Docket AB-No. 6 (Sub-No. 398X). SANBAG has advised each of the agencies listed in 49 C.F.R. §1105.11 that it is abandoning its interest in the line that they reviewed in the BNSF proceeding, that SANBAG is relying on the environmental documentation provided to them by BNSF in that proceeding.

and that SANBAG intends to remove the track and track-related facilities from the right-of-way.

Copies of the letters sent to the agencies listed in §1105.11 are attached in Exhibit C.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Charles A. Spitulnik", written over a horizontal line.

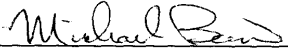
Charles A. Spitulnik
Alex Menendez
McLeod, Watkinson & Miller
One Massachusetts Avenue, NW
Suite 800
Washington, D.C. 20001
(202) 842-2345
Email: cspitulnik@mwmlaw.com;
amenendez@mwmlaw.com

Dated: October 7, 2003

VERIFICATION

State of California)
)
County of San Bernardino)

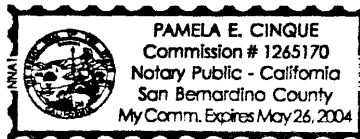
Michael Bair makes oath and says that he is the Director of Transit and Rail Programs for the San Bernardino Associated Governments ("SANBAG"), that he has been authorized by SANBAG to verify and file with the Surface Transportation Board the foregoing Notice of Exemption in STB AB-416 (Sub-No. 3X), that he has carefully examined all of the statements in the Notice as well as the exhibits attached thereto and made a part thereof; that he has knowledge of the facts and matters relied upon in the Notice, and that all representations set forth therein are true and correct to the best of his knowledge, information and belief.



Subscribed and sworn to before me, Pamela E. Cinque,
in and for the County and State above named, this 3rd
day of October, 2003.

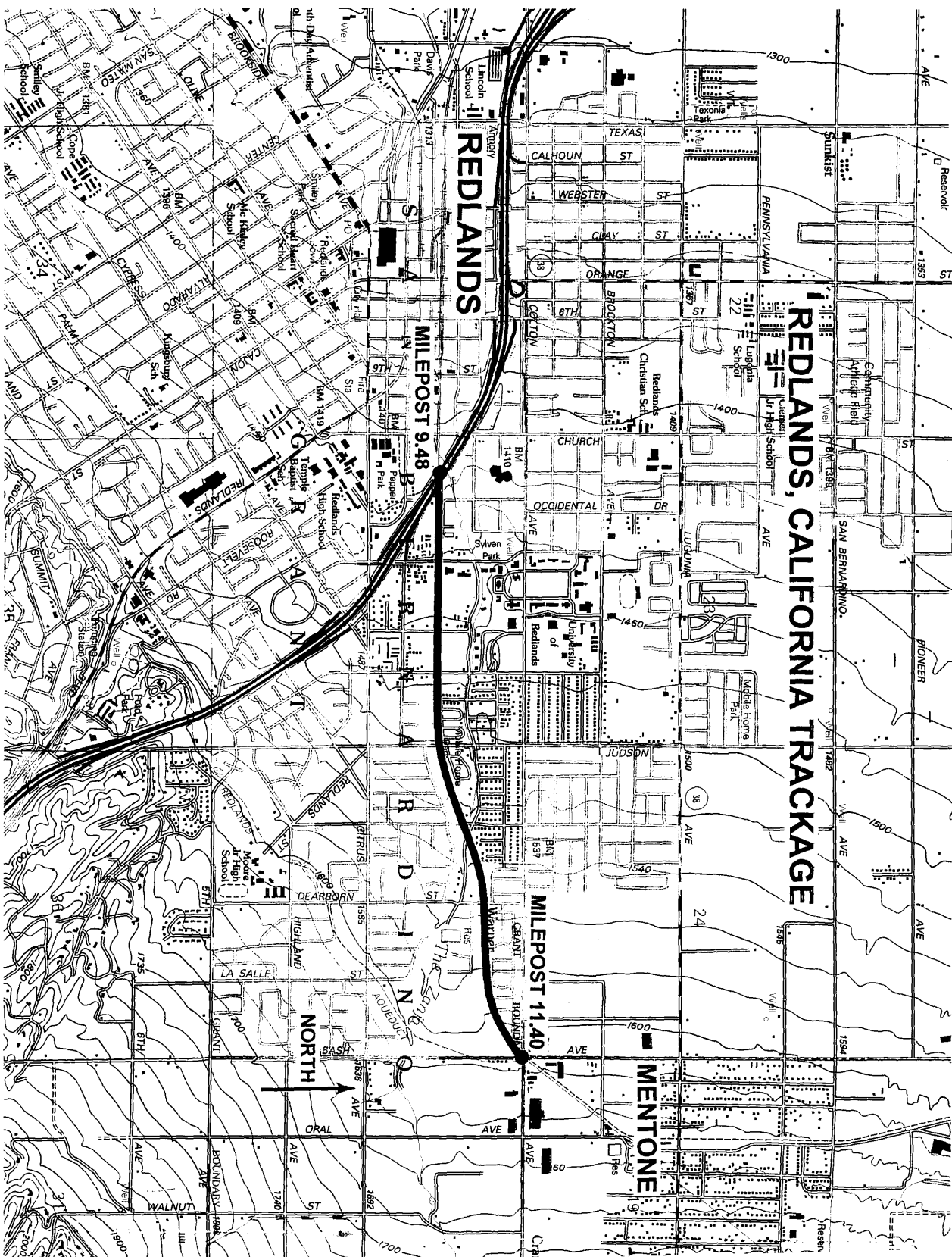


My Commission expires: 05/26/04



A

10



B

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September 26, 2003

California Public Utilities Commission
San Francisco Office (Headquarters)
505 Van Ness Avenue
San Francisco, California 94102

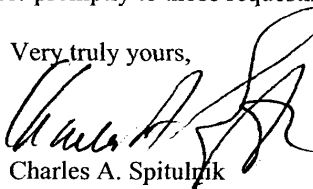
**Re: STB Docket AB-No. 416 (Sub-No. 3X), San Bernardino Associated
Governments – Abandonment – In San Bernardino County, CA**

Dear Sir or Madam:

San Bernardino Associated Governments ("SANBAG") gives notice that on or before October 7, 2003, it intends to file with the Surface Transportation Board ("STB") a Notice of Exemption for the abandonment of the segment of line between Milepost 9.48 and Milepost 11.40 on the Burlington Northern Santa Fe Railway Company ("BNSF") in Redlands, San Bernardino County, California. This is the line segment with respect to which BNSF filed a Notice of Exemption in Docket No. AB-6 (Sub-No. 398X), *The Burlington Northern and Santa Fe Ry. Co. – Abandonment Exemption – in San Bernardino County* (Service Date December 12, 2002), seeking to extinguish its obligation to provide common carrier freight service on the line. SANBAG owns the line and BSNF previously had the exclusive right and obligation to provide freight service over it.

The line traverses U.S. postal zip code 92374. Based on the information in SANBAG's possession, the line does not contain federally granted rights-of-way. Any documentation in SANBAG's possession will be made available promptly to those requesting it.

Very truly yours,



Charles A. Spitulnik

MCLEOD, WATKINSON & MILLER

California Public Utilities Commission
September 26, 2003
Page 2

Enclosure

cc: Mr. Michael Bair, SANBAG
Michael Smith, Esquire, Counsel for BNSF

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September 26, 2003

U.S. Department of Defense
Military Traffic Management Command
Transportation, Engineering Agency
Railroads for National Defense
200 Stovall Street
Alexandria, Virginia 22332

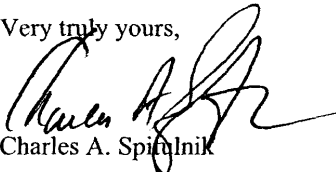
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McLEOD, WATKINSON & MILLER

U.S. Department of Defense
September 26, 2003
Page 2

Enclosure

cc: Mr. Michael Bair, SANBAG
Michael Smith, Esquire, Counsel for BNSF

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September 26, 2003

U.S. Department of the Interior
National Park Service
Recreation Resources Assistance Division
ORG Code 2220
1849 C Street, N.W.
Washington, D.C. 20240

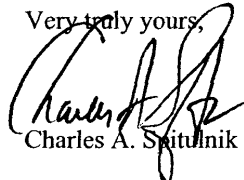
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Charles A. Spitulnik

MCLEOD, WATKINSON & MILLER

U.S. Department of the Interior
September 26, 2003
Page 2

Enclosure

cc: Mr. Michael Bair, SANBAG
Michael Smith, Esquire, Counsel for BNSF

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September 26, 2003

Mr. Dale Bosworth
Chief of the Forest Service
U.S. Department of Agriculture
Sidney R. Yates Building
201 14th Street, SW, 4th Floor
Washington, D.C. 20250

**Re: STB Docket AB-No. 416 (Sub-No. 3X), San Bernardino Associated
Governments – Abandonment – In San Bernardino County, CA**

Dear Mr. Bosworth:

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Charles A. Spitulnik

Charles A. Spitulnik

MCLEOD, WATKINSON & MILLER

Mr. Dale Bosworth
September 26, 2003
Page 2

Enclosure

cc: Mr. Michael Bair, SANBAG
Michael Smith, Esquire, Counsel for BNSF

C

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September 17, 2003

Mr. Edward McKay
National Geodetic Survey
NOAA – SSMC3
1315 East West Highway
Silver Spring, Maryland 20914

**Re: STB Docket AB-No. 416 (Sub-No. 3X), San Bernardino Associated
Governments – Abandonment – In San Bernardino County, CA**

Dear Mr. McKay:

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Attached is an Environmental Report describing the proposed action and any expected environmental and historic effects, as well as a map of the affected area. This is the environmental and historic report prepared and previously distributed to you in connection with BNSF's proposal to extinguish its right and obligation to provide freight service on this line. The sole difference between BNSF's statements and the plans of SANBAG is that SANBAG plans to remove rail, ties, switches and other track-related facilities from the right-of-way upon consummation of the abandonment.

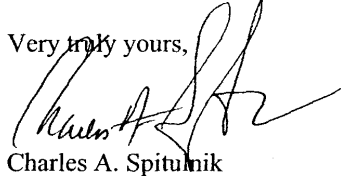
MCLEOD, WATKINSON & MILLER

Mr. Edward McKay
September 17, 2003
Page 2

We are providing this report so that you may review the information that will form the basis for the STB's independent environmental analysis of this proceeding. If any of the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the Board's environmental review process, please contact the Section of Environmental Analysis (SEA), Surface Transportation Board, 1925 K Street, NW, Washington, DC 20423, telephone (202) 565-1545 and refer to the above Docket No. Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments to SEA (with a copy to me) would be appreciated within 3 weeks.

Your comments will be considered by the Board in evaluating the environmental and/or historic preservation impacts of the contemplated action. If there are any questions concerning this proposal, please contact me directly.

Very truly yours,

A handwritten signature in black ink, appearing to read "Charles A. Spitulnik", written over a horizontal line.

Charles A. Spitulnik

Attachment

cc: Mr. Michael Bair, SANBAG

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September 17, 2003

U.S. Department of the Interior
National Park Service
Land Resource Division
1849 C Street, N.W.
Washington, D.C. 20240

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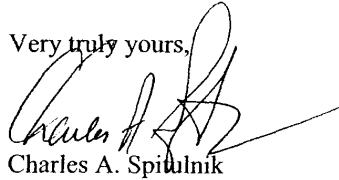
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U.S. Department of the Interior
September 17, 2003
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Charles A. Spitulnik

Attachment

cc: Mr. Michael Bair, SANBAG

LAW OFFICE

MCLEOD, WATKINSON & MILLER

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KATHRYN A. KLEIMAN*
OF COUNSEL
(*Admitted in Virginia only)
ROBERT RANDALL GREEN
LAURA L. PHELPS
GOVERNMENT RELATIONS

(**Admitted in Ohio only)
(***Admitted in New York only)

September 17, 2003

Ms. Anne Badgley
Regional Director
U.S. Department of the Interior
Fish and Wildlife Service
Eastside Federal Complex
911 NE 11th Avenue
Portland, Oregon 97232-4181

**Re: STB Docket AB-No. 416 (Sub-No. 3X), San Bernardino Associated
Governments – Abandonment – In San Bernardino County, CA**

Dear Ms. Badgley:

San Bernardino Associated Governments ("SANBAG") gives notice that on or before October 7, 2003, it intends to file with the Surface Transportation Board ("STB") a Notice of Exemption for the abandonment of the segment of line between Milepost 9.48 and Milepost 11.40 on the Burlington Northern Santa Fe Railway Company ("BNSF") in Redlands, San Bernardino County, California. This is the line segment with respect to which BNSF filed a Notice of Exemption in Docket No. AB-6 (Sub-No. 398X), *The Burlington Northern and Santa Fe Ry. Co. – Abandonment Exemption – in San Bernardino County* (Service Date December 12, 2002) seeking to extinguish its obligation to provide common carrier freight service on the line. SANBAG owns the line and BSNF previously had the exclusive right and obligation to provide freight service over it.

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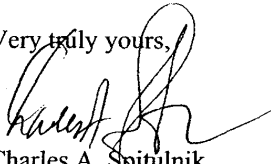
MCLEOD, WATKINSON & MILLER

Ms. Anne Badgley
September 17, 2003
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Very truly yours,



Charles A. Spitulnik

Attachment

cc: Mr. Michael Bair, SANBAG

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September 17, 2003

U.S. Environmental Protection Agency
Region 9
75 Hawthorne Street
San Francisco, California 94105

**Re: STB Docket AB-No. 416 (Sub-No. 3X), San Bernardino Associated
Governments – Abandonment – In San Bernardino County, CA**

Dear Sir or Madam::

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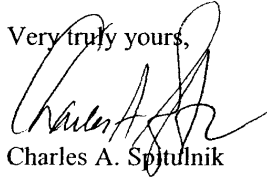
MCLEOD, WATKINSON & MILLER

U.S. Environmental Protection Agency
September 17, 2003
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Very truly yours,

A handwritten signature in black ink, appearing to read "Charles A. Spitulnik", is written over the typed name.

Charles A. Spitulnik

Attachment

cc: Mr. Michael Bair, SANBAG

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September 17, 2003

California Environmental Protection Agency
1001 I Street
Sacramento, California 95814

**Re: STB Docket AB-No. 416 (Sub-No. 3X), San Bernardino Associated
Governments – Abandonment – In San Bernardino County, CA**

Dear Sir or Madam:

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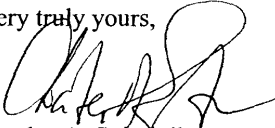
McLEOD, WATKINSON & MILLER

California Environmental Protection Agency
September 17, 2003
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Very truly yours,



Charles A. Spitulnik

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September 17, 2003

Terry Roberts
State Clearinghouse
P. O. Box 3044
Sacramento, California 95812-3044

**Re: STB Docket AB-No. 416 (Sub-No. 3X), San Bernardino Associated
Governments – Abandonment – In San Bernardino County, CA**

Dear Sir or Madam:

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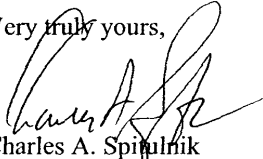
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Terry Roberts
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Charles A. Spitulnik

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September 17, 2003

Antal Szijj
U.S. Army Corps of Engineers
Seven Oaks Dam Office
32330 Santa Ana Canyon Road
Highland, California 92346

**Re: STB Docket AB-No. 416 (Sub-No. 3X), San Bernardino Associated
Governments – Abandonment – In San Bernardino County, CA**

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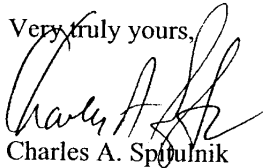
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MCLEOD, WATKINSON & MILLER

Antal Szijj
September 17, 2003
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Charles A. Spulnik

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September 17, 2003

Mr. Henry Wyman
State Conservationist
Natural Resources Conservation Service
430 G Street, #4164
Davis, California 95616-4164
ATTN: Diane Holcomb, State Resource Conservationist

**Re: STB Docket AB-No. 416 (Sub-No. 3X), San Bernardino Associated
Governments – Abandonment – In San Bernardino County, CA**

Dear Ms. Holcomb:

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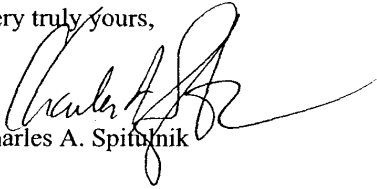
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Mr. Henry Wyman
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Very truly yours,


Charles A. Spitznik

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September 17, 2003

Mr. James Earsom
District Conservationist
Natural Resources Conservation Service
25864 K Business Center Drive
Redlands, California 92374
ATTN: Diane Holcomb, State Resource Conservationist

**Re: STB Docket AB-No. 416 (Sub-No. 3X), San Bernardino Associated
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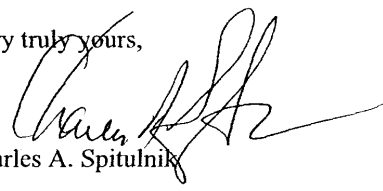
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